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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JAMES ERIC FINIAS,

Petitioner,
v.

RENEE BAKER, *et al.*,

Respondents.

Case No. 3:19-cv-00142-LRH-CBC

ORDER

This action is a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, by James Eric Finias, a Nevada prisoner. On March 11, 2019, Finias filed an application to proceed in forma pauperis (ECF No. 1), along with his habeas petition (attached to application to proceed in forma pauperis, at ECF No. 1-1), a motion for appointment of counsel (ECF No. 1-2), and a motion requesting an opportunity to amend his petition after counsel is appointed (ECF no. 1-3).

In light of the information provided in the application to proceed in forma pauperis, the Court finds that Finias is able to pay the \$5 filing fee for this action. The Court will deny the application to proceed in forma pauperis but will not require Finias to pay the filing fee until after counsel appears for him.

The information provided in the application to proceed in forma pauperis indicates that Finias cannot afford counsel. Indigent state prisoners applying for habeas corpus relief are not entitled to appointed counsel unless the circumstances indicate that appointed counsel is necessary to prevent due process violations. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir.

1 1986) (citing *Kreiling v. Field*, 431 F.2d 638, 640 (9th Cir. 1970) (per curiam). The court may,
2 however, appoint counsel at any stage of the proceedings if the interests of justice so require. *See*
3 18 U.S.C. § 3006A; *see also* Rule 8(c), Rules Governing § 2254 Cases; *Chaney*, 801 F.2d at
4 1196. Finias' petition indicates that he is serving one or more sentences of life in prison without
5 the possibility of parole. Further, it appears that the petition may raise several relatively complex
6 issues. It appears that Finias will not be able to adequately litigate this action without counsel.
7 The Court therefore finds that appointment of counsel is in the interests of justice.

8 The Court has examined Finias' petition, pursuant to Rule 4 of the Rules Governing
9 Section 2254 Cases in the United States District Courts and determines that it merits service
10 upon the respondents. The court will order the petition served upon the respondents, and will
11 direct the respondents to appear, but will not require any further action on the part of the
12 respondents at this time.

13 **IT IS THEREFORE ORDERED** that Petitioner's Application to Proceed in Forma
14 Pauperis (ECF No. 1) is **DENIED**.

15 **IT IS FURTHER ORDERED** that the Clerk of the Court shall separately file the habeas
16 petition (ECF No. 1-1), the motion for appointment of counsel (ECF No. 1-2), and the motion for
17 leave to amend (ECF No. 1-3).

18 **IT IS FURTHER ORDERED** that Petitioner's Motion for Appointment of Counsel
19 (ECF No. 1-2) is **GRANTED**. The Federal Public Defender for the District of Nevada (FPD) is
20 appointed to represent the petitioner. If the FPD is unable to represent the petitioner, because of a
21 conflict of interest or for any other reason, alternate counsel will be appointed. In either case,
22 counsel will represent the petitioner in all federal court proceedings relating to this matter, unless
23 allowed to withdraw.

24 **IT IS FURTHER ORDERED** that the Clerk of the Court shall electronically serve upon
25 the FPD a copy of this order, together with a copy of the petition for writ of habeas corpus (ECF
26 No. 1-1).

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1 **IT IS FURTHER ORDERED** that the FPD will have 30 days from the date of this order
2 to file a notice of appearance, or to indicate to the Court its inability to represent the petitioner in
3 this case.

4 **IT IS FURTHER ORDERED** that the requirement that petitioner pay the filing fee for
5 this action or file a new application to proceed in forma pauperis, is suspended. The Court will
6 set a deadline for payment of the filing fee after counsel appear for the petitioner and the
7 respondents.


8 **IT IS FURTHER ORDERED** that the Clerk of the Court shall add Aaron Ford,
9 Attorney General of the State of Nevada, as counsel for the respondents.

10 **IT IS FURTHER ORDERED** that the Clerk of the Court shall electronically serve upon
11 the respondents a copy of the petition for writ of habeas corpus (ECF No. 1-1), and a copy of this
12 order.

13 **IT IS FURTHER ORDERED** that the respondents will have 30 days from the date of
14 this order to appear in this action. Respondents will not be required to respond to the habeas
15 petition at this time.

16 **IT IS FURTHER ORDERED** that the petitioner's motion for leave to amend (ECF No.
17 1-3) is **GRANTED**. The Court will establish a schedule for further proceedings, including
18 amendment of the petition, after counsel appear for the petitioner and the respondents.

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20 DATED this 13th day of March, 2019.

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24 LARRY R. HICKS,
25 UNITED STATES DISTRICT JUDGE
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